

JAN 16 2009

Board of Vocational Nursing
and Psychiatric Technicians

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**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF VOCATIONAL NURSING AND
PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2005-311

MORGAINÉ K.C.M. MCGUIRE

140 Encinitas Blvd., #127

Encinitas, CA 92024

A C C U S A T I O N

Vocational Nurse License VN 158839

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
Nursing and Psychiatric Technicians.

2. On July 2, 1992, Vocational Nurse License VN 158839 was issued by the
Board of Vocational Nursing and Psychiatric Technicians to MORGAINÉ K.C.M. MCGUIRE
(hereinafter "Respondent"). Said license is in full force and effect and will expire on April 30,
2010, unless renewed.

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discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

9. Section 2878 of the Code states:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(2) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event the record of conviction shall be conclusive evidence of the conviction.

....

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

10. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

11. California Code of Regulations, Title 16, section 2522.5 states:

1 (a) When considering the suspension or revocation of a license on the
2 ground that a licensed vocational nurse has been convicted of a crime, the Board,
3 in evaluating the rehabilitation of such person and his eligibility for a license will
4 consider the following criteria:

- 5 (1) Nature and severity of the act(s) or offense(s).
6 (2) Total criminal record.
7 (3) The time that has elapsed since commission of the act(s) or
8 offense(s).
9 (4) Whether the licensee has complied with any terms of
10 parole, probation, restitution, or any other sanctions lawfully imposed against the
11 licensee.
12 (5) If applicable, evidence of expungement proceedings
13 pursuant to Section 1203.4 of the Penal Code.
14 (6) Evidence, if any, of rehabilitation submitted by the
15 licensee.

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
17 request the administrative law judge to direct a licensee found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(January 3, 2008 Criminal Conviction for Forgery of State Seal
22 and Practicing Medicine Without a License in July and August 2005)**

23 13. Respondent has subjected her license to disciplinary action under sections
24 490 and 2878, subdivision (f) of the Code in that Respondent was convicted of a crime that is
25 substantially related to the qualifications, functions, and duties of a licensed vocational nurse.
26 The circumstances are as follows:

27 a. On September 12, 2007, a felony complaint was filed against
28 Respondent in an action styled as *The People of the State of California vs. Khrysta Marty aka
Morgaine McGuire, Morgaine Khrysta McGuire, Khrysta Marie Marty*, Orange County Superior
Court, County of Orange, Central Justice Center, Case No. 07CF3053, DCA 2005-12-1350. The
complaint charged that Respondent forged official document(s) and, further, engaged in the
unauthorized practice of medicine. On January 3, 2008, Respondent pleaded guilty to the

1 misdemeanor charges in violation of Penal Code section 472 (forgery) and Business and
2 Professions Code section 2052(a) (unauthorized practice of medicine). Respondent was ordered
3 to pay certain fines, serve 11 days in jail, provide 40 hours community service, placed on three
4 years informal probation, and ordered not to engage in any career in the field of medicine.

5 b. The facts that led to the conviction were that: (i) on or about July
6 22, 2005, Respondent committed forgery of the State Seal of California in violation of Penal
7 Code section 472 in order to falsely represent herself to be a Registered Nurse, when in fact she
8 was a Vocational Nurse, and (ii) in or about August, 2005, Respondent in violation of section
9 2052(a) of the Code, engaged in the practice of medicine without a license by unlawfully
10 administering Botox in the County of Orange.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct Under Section 2878(a))**

13 14. Respondent is subject to disciplinary action under Section 2878(a) of the
14 Code, in that she committed acts of unprofessional conduct, including falsely representing,
15 advertising and/or holding herself out to be a Registered Nurse and/or Registered Nurse
16 Practitioner from approximately July to October 2005, while she was employed at DCLCC, a
17 cosmetic medical practice in the County of Orange, California, which events resulted in the
18 conviction described in paragraph 13 above.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct Under Section 2878(a)(2))**

21 15. Respondent is subject to disciplinary action under Section 2878(a)(2) of
22 the Code, in that she committed acts of unprofessional conduct resulting in a conviction of
23 practicing medicine without a license, as described in paragraph 13, above.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Unsafe to Practice Under Section 822)**

26 16. Respondent is subject to disciplinary action under Section 822 of the
27 Code, in that she has been evaluated by a psychiatrist pursuant to Section 820 of the Code and it
28 has been determined that Respondent's ability to practice safely is impaired due to mental


1 illness, and/or physical illness affecting Respondent's competency to practice safely as a
2 vocational nurse.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
6 Technicians issue a decision:

- 7 1. Revoking or suspending Vocational Nurse License Number VN 158839,
8 issued to MORGAIN K.C.M. MCGUIRE;
- 9 2. Ordering MORGAIN K.C.M. MCGUIRE to pay the Board of Vocational
10 Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of
11 this case, pursuant to Business and Professions Code section 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.
- 13

14 DATED: January 16, 2009

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16 
17 TERESA BELLO-JONES, J.D., M.S.N., R.N.
18 Executive Officer
19 Board of Vocational Nursing and Psychiatric Technicians
20 State of California
21 Complainant
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